



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,668	10/17/2003	Gregg L. Shedd	TN-3305	2621
7590	10/28/2005		EXAMINER	
Black & Decker Inc. 701 E. Joppa Road, TW-199 Towson, MD 21286			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/688,668	SHEDDY ET AL.	
	Examiner	Art Unit	
	Carolyn T. Blake	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 October 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 October 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This action is in response to applicant's amendment received on October 5, 2005.
2. The objection to the drawings is withdrawn in view of the amendment.
3. The objection to claim 1 is withdrawn in view of the amendment.
4. The text of those sections in Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (6,272,961).

Regarding claim 1, Lee discloses the device substantially as claimed including a saw comprising: a base (50); a frame assembly (20) disposed on the base (50); a first rail (221) disposed on the frame assembly (20), the first rail (221) having a longitudinal axis; a table (30) slidably disposed on the first rail (221), the table (30) being movable in a direction substantially parallel to the longitudinal axis; a saw assembly (60) disposed on at least one of the base (50) and the frame assembly (20), the saw assembly (60) comprising a support assembly (23), a motor assembly (41) pivotably supported by the support assembly (23), the motor assembly (41) being pivotable about a pivot axis substantially parallel to the longitudinal axis, and a cutting wheel (42) driven by the motor assembly (41), the cutting wheel (42) having a plane substantially parallel to the pivot axis; and a switch (on controlling head 45) electrically connected to the motor assembly (41). Lee fails to disclose the switch remains stationary when the motor is

pivoted. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the switch in an alternative location since it has been held the shifting of parts to different positions is a known variable. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Regarding claim 2, Lee discloses the first rail (221) has a first end, and the table (30) is movable beyond the first end.

Regarding claim 3, Lee discloses the table (30) is movable beyond the base (50).

Regarding claim 4, Lee discloses the base (50) is formed as a tub.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee as applied to claim 1 above, and further in view of Klingens (2,691,398). Lee fails to disclose the frame is made of aluminum. However, Klingens discloses a saw wherein the frame is made of aluminum. Aluminum is a good material choice for a sturdy component such as a frame because it can be easily used in casting operations. See col. 2, lines 29-34. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use aluminum for the frame, as disclosed by Klingens, on the Lee device because aluminum can be easily used in casting operations.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

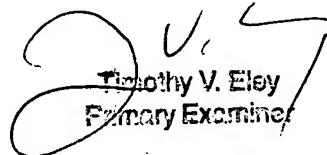
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

CB

October 26, 2005

  
Timothy V. Eley  
Primary Examiner